

No. 13169-4 Lab-75/1520.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak in respect of the dispute between the workmen and the management of M/s H. K. Enterprises, Bahadurgarh.

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, LABOUR COURT,
HARYANA, ROHTAK

Reference No. 35 of 1974

Between

SHRI TEJ RAM AND THE MANAGEMENT OF M/S H. K. ENTERPRISES, BAHADURGARH
AWARD

By order No. ID/14298—302, dated 25th May, 1974 of the Governor of Haryana, the following dispute between the management of M/s H. K. Enterprises, Bahadurgarh and its workman Shri Tej Ram was referred for adjudication to this court, in exercise of the powers conferred by clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947.

“Whether the termination of services of Shri Tej Ram was justified and in order? If not, to what relief is he entitled?”

The parties appeared in this court in response to the notices of reference sent to them and filed their pleadings.

The workman alleged,—*vide* statement of claim filed by him that his services as a Store Keeper on monthly wages of Rs. 150 had been illegally terminated by the respondent on 10th December, 1973 and that he had been victimised in that manner for his trade union activity. He stated that he was entitled to be reinstated with full back wages.

The management,—*vide* written reply dated 8th August, 1974 denied the allegations of the workman that he had been removed from service with effect from 10th December, 1973 and pleaded that he abandoned his services of his own accord on 11th October, 1973 and that their factory was not functioning.

The workman reiterated his allegations made by him in the statement of claim, *vide* rejoinder filed by him and controverted the pleas of the respondent with the result that the following issues were framed on pleas of the parties,—*vide* order dated 24th September, 1974 by Shri O. P. Sharma my learned predecessor, the then Presiding Officer, Labour Court.

1. Whether the factory has been closed? If so since when and with what effect?
2. Whether the termination of services of Shri Tej Ram was justified and in order? If not, to what relief is he entitled?

I have heard the authorised representative of the parties and seen the records. I decide the issue as under,—

Issue No. 1—

The respondent examined Shri J. S. Mehta their Manager as M. W. 1 in order to prove this issue, Shri J. S. Mehta deposed that the factory remained closed since 31st March, 1973. He produced a copy of a note made by the Inspector, Central Excise Inspection Group, Gurgaon on 15th April, 1975 that no transaction were found to have been made during the period from June, 1974 to December, 1974. He also relied upon copy of another report of the Excise Superintendent, Gurgaon Exhibit M. 2 showing that there was no change in the stocks of the respondent during the period from 31st March, 1973 to 15th April, 1975 and on the copy of the report of the Excise Inspector, Gurgaon Ex. M. 3 that there was no entry in the Stock Register of the respondent after 30th May, 1973. In absence of legal proof of these documents and in view of the failure of the management to examine the author thereof, their correctness can not be vouched safe even assuming those as correct and genuine documents the same are hardly sufficient to prove the closure of the business.

It was not admitted by Shri J. S. Mehta that no notice in respect of the closure of the business of the respondent was given to any of the workmen or to the Labour Department. It is, therefore, clear that no action was admittedly taken by the management under section 25 FFF of the Industrial Disputes Act, 1947, relating to the procedure prescribed therein in respect of payment of retrenchment compensation to the workman in such cases of closure. This leads to a conclusion that no steps provided by law were taken by the respondent for closure of the business of the respondent.

As against the aforesaid evidence, of Shri J. S. Mehta, the workman examined Shri Sadhu Singh W. W. 1 and Shri Shiv Lal W. W. 2 besides making his own statement. Shri Sadhu Singh deposed that he remained in the service of the respondent during the period from 26th March, 1974 to 7th May, 1974. Shri Shiv Lal stated that he worked as a labourer with the respondent for about 1½ months ending on 10th December, 1973. Shri Tej Ram workman gave out that he served the respondent during the period from 3rd November, 1971 to 10th December, 1973 when his services were terminated without sufficient cause and without enquiry and that the factory was running well at the time of termination of his services. He added that the management had employed a watchman recently and that he had never been served with notice of closure of the factory. Nothing could be brought in cross-examination of the statements of any of these witnesses leading me to suspect his evidence. The circumstances that no procedure in respect of closure of business provided *vide* section 25FFF of the Industrial Disputes Act, 1947 was followed lends support to the evidence of Sarvshri Sadhu Singh, Shiv Lal and Tej Ram that the business of the respondent was being actively run till 10th December, 1973. I as such placing no reliance on the statement of Shri J. S. Mehta believe the statements of Sadhu Singh, Shiv Lal and Tej Ram and hold against the management of this issue.

Issue No. 2

The bare statement of Shri J. S. Mehta that the other evidence abandoned his job of his own, uncorroborated by any other evidence documentary or oral is not sufficient to prove that the services of the workman were not terminated, particularly when this statement is rebutted by the workman himself. I as such hold that the termination of services of Tej Ram workman was unjustified, and that he is entitled to be reinstated with effect from 10th December, 1973 with continuity of service and full back wages subject to prove of his having remained un-employed during the period from 10th December, 1973 onwards. I return the award accordingly with no order as to costs.

MOHAN LAL JAIN,

Presiding Officer,
Labour Court, Haryana,
Rohtak.

Dated the 6th November, 1975.

No. 2836, dated 10th November, 1975.

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

MOHAN LAL JAIN,

Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 12945-4Lab-75/1524.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workmen and the management of M/s Radhika Rubber Products, Plot No. 33, Sector 6, Faridabad.

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 125 of 1973

between

SHRI JOGINDER TIWARI, WORKMAN AND THE MANAGEMENT OF M/S RADHIKA
RUBBER PRODUCTS, PLOT No. 33, SECTOR-6, FARIDABAD

AWARD

By order No. ID/FD/73/250/32391, dated 12th July, 1973 the Governor of Haryana, referred the following dispute between the management of M/s Radhika Rubber products, plot No. 33, Sector-6, Faridabad and its workman Shri Joginder Tewari to this Tribunal, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947.

Whether the termination of services of Shri Joginder Tiwari was justified and in order? If not, to what relief is he entitled?

The parties appeared in this Tribunal in response to the notices of reference sent to them and filed their pleadings.

The workman alleged vide the statement of claim that his services had been terminated by the management without sufficient cause and without enquiry. He prayed for his reinstatement with continuity of service and back wages with effect from 28th February, 1973 the alleged date of termination of his services.

The management vide written reply filed by then pleaded that the reference was bad in law for want of service of notice of demands on them directly by the workman and its rejection by them before the matter was taken to the Conciliation Officer. They further pleaded that the demands has not been espoused by other members of the union and that their description by the name and style of Radhika Rubber Products as given by the workman was incorrect and that they were an incorporated company by the name and style of Radhika Rubber Products (P) Ltd; and that they should have been impleaded in the reference with this description. On merits they denied the allegation of the workman in respect of termination of his services by them and stated that he remained absent from duty with effect from 5th March, 1973 and never turned up thereafter with the result that his name had to be struck off the rolls of the employees. They finally averned that assuming the allegation of the workman in respect of termination of his services as correct, he being a probationer, the management had the right to terminate his services before his confirmation.

The workman reiterated the allegations made by him in the statement of claim vide a rejoinder filed by him with the result that the parties came to trial on the following issues that were framed on pleas of the parties :—

- (1) Whether the demand, the subject-matter of the present reference, was first raised on the management and rejected by it before taking up the matter for conciliation? If not, with what effect? (on workman).
- (2) Whether the dispute has been properly espoused?
- (3) Whether the description of the management has been wrongly given in the order of reference? If so, with what effect?
- (4) Whether the termination of services of Shri Joginder Tiwari was justified and in order? If not, to what relief is he entitled?

I have heard the authorised representatives for the parties and have seen the record. I decide the issues as under :—

Issue No. 1.—I for the reasons stated by me in detail in my order dated 10th October, 1975 made in case Shri S. C. Sethi Vs. M/s Kirlosker Oil Engine, Mathura road, Faridabad hold that it was no longer necessary for the workman to serve the notice of demands on the management and for the later to reject the demands before the matter was taken to the Conciliation officer. I, therefore, decide this issue against the management.

Issue No. 2.—This being an individual dispute between the workman and the management, its espousal by the other workman is not necessary under law. This was not even pressed by the management and as such is decided against them.

Issue No. 3.—Shri Vijay Nayyar, Director of the respondent concern examined as M.W. 1 deposed that their company had been incorporated under the Companies Act and bore the name and style of M/s Radhika Rubber Products (P) Ltd., as was printed on the letter head Ex. M-6. There is absolutely no rebuttal on record of his statement on behalf of the workman, so much so, he did not even make his own statement denying the plea of respondents. I, therefore, relying on the evidence of Shri Vijay Nayyar hold that the respondent have not been correctly described by the workman in the notice of demands and in the reference and that they have been erroneously impleaded by the name and style of M/s Radhika Rubber Products. This mistake however is not such as to render the reference invalid and no provision of law could be referred to me justifying such a conclusion. I, therefore, decide this issue accordingly.

Issue No. 4.—Shri Vijay Nayyar, M.W. 1, Director of the respondent concern deposed with reference to the attendance register brought by him, that the workman absented himself from duty with effect from 5th March, 1973 and never turned up thereafter. He brought on record the copy of the relevant entries of the attendance register Ex. M-5 in support of his statement and gave out that the name of the workman had to be struck off the rolls of the employees of the company as a result of his continued absence till 31st March, 1973. The statement of the workman in support of his allegation that his services had been terminated on 28th February, 1973, without any corroboration of his testimony on record, is in my opinion not sufficient to rebut the evidences of Shri Nayyar and the documentary evidence relied on by the management relating to the entries in the attendance register. I as such while disbelieving the workman and relying on the statement of Shri Vijay Nayyar and the entries

in the attendance register, hold that this is not a case of termination of the services of the workman by the management and is on the other hand a case of striking off the name of the workman from the rolls of the employees of the respondent as a result of his continued absence. I decide this issue accordingly.

As a result of my findings on the aforesaid issues I hold in terms of my finding on issue No. 4 with a further finding that the workman is not entitled to any relief. I return the award accordingly.

MOHAN LAL JAIN,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Dated 10th November, 1975.

No. 1705, dated 10th November, 1975.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

MOHAN LAL JAIN,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Dated 10th November, 1975

No. 13161-4Lab-75/1526.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak in respect of the dispute between the workmen and the management of M/s M. P. Dall Mills, Hissar,

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, LABOUR COURT,
HARYANA, ROHTAK

Reference No. 8 of 1974

between

SHRI MOOL CHAND AND THE MANAGEMENT OF M/S M. P. DALL MILLS, HISSAR
AWARD

By order No. ID/HSR/123-A-73/2357—61, dated 24th January, 1974 of the Governor of Haryana, the following dispute between the management of M/s M. P. Dall, Mills, Hissar and its workman Shri Mool Chand was referred for adjudication to this Court, in exercise of the powers conferred by clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947.

“Whether the termination of services of Shri Mool Chand was justified and in order? If not, to what relief is he entitled?”

Usual notices of the reference being sent to the parties, they appeared on 18th April, 1974. The workman filed his statement of claim on that date with the allegations that his services as a Driver with the respondent had been terminated in December, 1972 by the later without sufficient cause and without an enquiry and as such the termination of his services was illegal. The management filed their reply on 29th July, 1974 with a plea that the reference was invalid for want of a demand by the workman directly on them and its rejection by them before the matter was taken to the Conciliation Officer and that the workman was never in their employment and as such the question of the termination of his services did not arise. The following issues were thus framed on pleas of the parties vide order dated 29th July, 1974.

1. Whether the demand the subject matter of the present reference was first raised on the management and rejected by it before taking up the matter for conciliation? If not with what effect?
2. Whether the termination of services of Shri Mool Chand was justified and in order? If not, to what relief is he entitled?

The management did not put in their appearance on 6th January, 1975 despite being directed to do so and adduce their evidence vide registered letter A. D. with the result that *ex parte* proceedings were taken up against them on that date

The workman appeared as his own witness in *ex parte* evidence and supported his demand initially raised by him on the management that his services as a Driver had been illegally terminated by them in December, 1972. I see no reasons to disbelieve his statement particularly when the proceedings against the management are *ex parte* and the latter has not taken care to defend the demand made by the workman leading to this reference. I accordingly relying on the statement of Shri-Mool Chand hold that he was actually employed as a Driver with the respondent and his services had been illegally terminated in December, 1972. I accordingly decide issue No. 2 against the management.

I, for the reasons stated by me in details in my order dated 10th October, 1975 in a reference between Shri S. C. Sethi and the management of M/s Kirlosker Oil Engine (P) Ltd., Faridabad, hold that it was no longer necessary for the workman to raise a demand directly on the management and for the latter to reject it, before the matter was taken to the Conciliation Officer for a valid reference and decide issue No. 1 against the management.

I, as a result of my finding on the aforesaid issues, hold that the termination of the services of the workman by the management in December, 1972 was unjustified and the former is entitled to reinstatement with continuity of service and full back wages. There shall be no order as to costs.

MOHAN LAL JAIN.

Dated 4th November, 1975.

Presiding Officer
Labour Court, Haryana,
Rohtak.

The 16th January, 1976

No. 14140-4Lab-75/1603.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management of M/s Haryana Spun Pipe Factory, Sain Majra (Tehsil Naraingarh, District Ambala):—

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 173 of 1973

[between

THE WORKMEN AND THE MANAGEMENT OF M/S HARYANA SPUN PIPE FACTORY,
SAIN MAJRA (TEHSIL NARAINGARH, DISTRICT AMBALA).

AWARD

By order No. ID/AMB/291-A-73/40979, dated 11th October, 1973, the Governor of Haryana, referred the following dispute between the management of M/s Haryana Spun Pipe Factory, Sain Majra, (Tehsil Naraingarh, District Ambala) and its workmen to this Tribunal, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether attendance cards should be issued to all the workers of factory? If so, with what details?

The parties appeared in response to the notice of reference sent to them.

The respondent filed the written statement with a plea that the reference was invalid as the dispute referred to this Tribunal for adjudication did not fall within the provision of schedules 2 and 3 appended to the Industrial Disputes Act and that the workmen were governed by P.W.D. Rules. It was stated that the demand giving rise to the reference was illegal. The following issues were framed on pleas of the parties. The management failed to put in their appearance on 4th August, 1972 despite being directed to do so and as such were proceeded with *ex parte*. They again put in their appearance on 12th August, 1975 and failed to appear on 24th November, 1975.

ISSUES

- (1) Whether the present reference is bad in law for reasons given in the written statement of the management? (on management).
- (2) Whether attendance cards should be issued to all the workers of factory? If so, with what details?

I have heard Shri Madhu Sudan Saran Cowshish authorised representative for the workmen with reference to the evidence led by them. I decide the issue as under :—

Issue No. 1.—

The appropriate Government is entitled under section 10 of the Industrial Disputes Act, 1947, to refer any dispute following in the second schedule and the third schedule to the Labour Court and Industrial Tribunal respectively for adjudication. Item No. 6 of the second schedule deals with all matters other than those specified in the third schedule. The third schedule relates amongst other to rule of discipline and nationalisation as well. It can not therefore be said that the dispute as referred to this Court is not covered by the schedule second and third appended to the Act and the reference is bad in law. I, therefore, decide this issue against the management.

Issue No. 2.—

The workman Subash Chander appeared as his own witness and deposed that the supply of attendance cards to the workmen was necessary in order to obviate the possibility of their victimisation by the management. He added that without the supply of attendance cards to the workmen, it was possible for the management to show them as absent even when they or any of them was present on a particular working day on duty.

I have considered the whole matter and find the claim of the workmen specified by Shri Subhash Chander workman,—*vide* his statement made on 25th November, 1975 well established. I agree with the authorised representative for the workmen that supply of attendance cards to the latter would obviate the possibility of dishonest action on the part of the management, *vis-a-vis* the workmen even otherwise according to Shri Subhash Chander are more than 100 workmen in the factory being run by the respondent and it is but fair and reasonable that the attendance cards be supplied to the workmen to ensure payment of wages to them according to the work put in by them.

I for the reason aforesaid hold in favour of the workmen on this issue and return the award with the findings given under issue No. 2 that attendance cards should be issued to all the workmen of the factory and that the management should record the presence of the workmen concerned in the attendance card supplied to him for the day or part thereof he actually remained on duty.

Dated 12th December, 1975

MOHAN LAL JAIN,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 13159-4Lab-75/1628.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak, in respect of the dispute between the workman and the management of M/s United Steel and Allied Industries, Bahadurgarh:—

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, LABOUR COURT, HARYANA, ROHTAK

Reference No. 32 of 1975

between

SHRI OM PARKASH AND THE MANAGEMENT OF SHRI PROMODE SINGH, CONTRACTOR,
M/S UNITED STEEL AND ALLIED INDUSTRIES, BAHADURGARH.

AWARD

By order No. ID/RK/17-E-75/30133-37, dated 19th May, 1975, of the Governor of Haryana, the following dispute between the management of M/s Shri Promode Singh, Contractor, M/s United Steel and Allied Industries, Bahadurgarh, and its workman Shri Om Parkash was referred for adjudication to this Court in exercise of the powers conferred by clause (c) of sub-section (i) of Section 10 of the Industrial Disputes Act, 1947:—

“Whether the termination of services of Shri Om Parkash was justified and in order? If not, to what relief is he entitled?”

Usual notices of the reference being sent to the parties, the workman did not appear despite due service of the notice. The management put in their appearance through Shri Parmode Kumar who made a statement that the workman had received Rs. 2,000 in full and final satisfaction of all his claims against the management.—*vide* receipt Ex. M. 1

I see no reason to disbelieve the statement of Shri Parmod Kumar particularly when the proceedings against the workman are *ex parte* and he has not taken care to pursue the demand earlier made by him leading to this reference.

I accordingly hold that there is now no dispute between the parties requiring adjudication and return a no-dispute award with no order as costs.

MOHAN LAL JAIN,

Presiding Officer,
Labour Court, Haryana,
Rohtak.

Dated 7th November, 1975.

No. 2841, dated 10th November, 1975

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

MOHAN LAL JAIN.

Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 13070-4Lab-75/1694.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workman and the management of M/s. Globe Wasti Manufacturing Company, 14/1 Mile Stone, Mathura Road, Faridabad:—

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 55 of 1975

between

SHRI RAM RAJ WORKMAN AND THE MANAGEMENT OF M/S GLOBE WASTI
MANUFACTURING COMPANY, 14/1 MILE STONE, MATHURA ROAD, FARIDABAD

AWARD

By order No. ID/FD/75/14175, dated 10th March, 1975, the Governor of Haryana, referred the following dispute between the management of M/s Globe Wasti Manufacturing Company, 14/1 Mile Stone, Mathura Road, Faridabad and its workman Shri Ram Raj to this Tribunal, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of services of Shri Ram Raj was justified and in order ? If not, to what relief is he entitled ?

The parties appeared in this Tribunal in response to the notices of reference sent to them. They arrived at a settlement on 11th November, 1975 whereby the management paid a sum of Rs 200 to the workman in full and final satisfaction of all his claim against them, giving rise to this reference. The statements of workman and Shri S. D. Verma authorised representative for the management were recorded by me on 11th November, 1975 in affirmation of the settlement referred to above.

I thus in view of the statements of the parties, hold that the demands of the workman giving rise to this reference have been fully satisfied and he is not entitled to any further relief. I return the award accordingly.

Dated the 13th November, 1975.

MOHAN LAL JAIN,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.